



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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State Controller, Sacramento

RAMON J. HIRSIG
Executive Director

December 3, 2004

Dear Interested Parties :

Enclosed are the Agenda, Issue Paper, and Revenue Estimate for the December 14, 2004 Business Taxes Committee meeting. This meeting will address the adoption of Regulation 4905, *Electronic Funds Transfer*, to implement, interpret and make specific the statutory provisions of the electronic funds transfer program for Special Taxes, and Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214, 3203, 3503, and 1425, *Payment by Electronic Funds Transfer*, to refer tax and fee payers to Regulation 4905 for information on payments made by electronic funds transfer.

The Agenda describes Action 1 on which we believe industry and staff are in full agreement.

If you wish to have Action 1, which is a consent item, discussed fully at the Committee meeting, you must contact a Board Member prior to Friday December 10, 2004 to request removal of the item from the Consent Agenda. In addition, please notify Mr. Dennis P. Maciel, Chief, Excise Taxes and Fees Division, after you contact a Board Member's Office. Mr. Maciel may be reached at (916) 327-4208.

Thank you for your input on this issue and I look forward to seeing you at the Business Taxes Committee meeting at **9:30 a.m.** on **December 14** in Room 121 at the address shown above.

Sincerely,

David J. Gau, Deputy Director
Property and Special Taxes Department

TMK: tmk

Enclosures

cc: (all with enclosures)

Honorable Carole Migden, Chairwoman

Honorable Claude Parrish, Vice Chairman

Honorable Bill Leonard, Member, Second District (MIC 78)

Honorable John Chiang, Member, Fourth District

Honorable Steve Westly, State Controller, C/O Ms. Marcy Jo Mandel

Ms. Carole Ruwart, Board Member's Office, First District (MIC 71)

Ms. Sabina Crocette, Board Member's Office, First District

Mr. Neil Shah, Board Member's Office, Third District (via e-mail)

Mr. Romeo Vinzon, Board Member's Office, Third District (via e-mail)

Ms. Margaret Pennington, Board Member's Office, Second District (via e-mail)

Mr. Tom Hudson, Board Member's Office, Second District (via e-mail)

Mr. Lee Williams, Board Member's Office, Second District (MIC 78 and via e-mail)

Ms. Sylvia Tang, Board Member's Office, Fourth District (MIC 72)

Mr. Ramon J. Hirsig (MIC 73)

Mr. Timothy Boyer (MIC 83)

Ms. Randie Henry (MIC 43)

Mr. Dennis P. Maciel (MIC 56)

bc:

Ms. Janice Thurston (MIC 82)
Mr. Jeffrey H. Graybill (MIC 82)
Ms. Judy Nelson (MIC 82)
Ms. Jean Ogrod (via e-mail)
Mr. Jeff Vest (via e-mail)
Mr. David Levine (MIC 85)
Mr. Steve Ryan (via e-mail)
Mr. Rey Obligacion (via e-mail)
Mr. Todd Gilman (MIC 70)
Mr. Dave Hayes (MIC 67)
Mr. Jeffrey L. McGuire (MIC 92 and via e-mail)
Ms. Cecelia Watkins (MIC 50)
Ms. Sue Mayhew (MIC 35)
Mr. Edward King (MIC 33)
Mr. Arlo Gilbert (MIC 33)
Ms. Lynn Bartolo (MIC 57)
Mr. David Mckillip (MIC 57)
Mr. Vic Day (MIC 56)
Mr. Todd M. Keefe (MIC 56)

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AGENDA —December 14, 2004 Business Taxes Committee Meeting
Proposed Special Taxes Regulation 4905, *Electronic Funds Transfer*, and Proposed
Cross-reference Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214,
3203, 3503, and 1425, *Payments by Electronic Funds Transfer*

<p>Action 1 — Agreed Upon Items</p> <p>Agenda, pages 1 – 8.</p>	<p>Adopt proposed Regulation 4905 as recommended by staff to implement, interpret, and make specific the statutory provisions of the electronic funds transfer program for Special Taxes. Also adopt proposed Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214, 3203, 3503, and 1425 as recommended by staff to refer tax and fee payers to Regulation 4905 for information on payments by electronic funds transfer.</p>
<p>Action 1 – Authorization to Publish</p>	<p>Recommend publication of proposed Regulations 4905, 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214, 3203, 3503, and 1425 as adopted in the above actions.</p> <p>Operative Date: None. Implementation: 30 days following OAL approval.</p>

AGENDA —December 14, 2004 Business Taxes Committee Meeting
Proposed Special Taxes Regulation 4905, *Electronic Funds Transfer*, and Proposed
Cross-reference Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214,
3203, 3503, and 1425, *Payments by Electronic Funds Transfer*

Action Item	Staff and Industry's Proposed Regulatory Language
	<p><u>Regulation 4905. ELECTRONIC FUNDS TRANSFER.</u></p> <p>Reference: Sections 7659.9, 7659.92, 8760, 8762, 30190, 30192, 32260, 32262, 40067, 40069, 41060, 41062, 43170, 43172, 45160, 45162, 46160, 46162, 50112.7, 50112.9, 55050, 55052, 60250 , and 60252 Revenue and Taxation Code.</p> <p><u>(a) DEFINITIONS.</u></p> <p>(1) <u>"Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer.</u></p> <p>(2) <u>"Automated clearinghouse" means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.</u></p> <p>(3) <u>"Automated clearinghouse debit" means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person's bank account and crediting the state's bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.</u></p> <p>(4) <u>"Automated clearinghouse credit" means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.</u></p>

AGENDA —December 14, 2004 Business Taxes Committee Meeting
Proposed Special Taxes Regulation 4905, *Electronic Funds Transfer*, and Proposed
Cross-reference Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214,
3203, 3503, and 1425, *Payments by Electronic Funds Transfer*

Action Item	Staff and Industry's Proposed Regulatory Language
	<p>(5) "Federal Reserve Wire Transfer" means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state's bank account. Electronic funds transfers pursuant to Revenue and Taxation Code sections 7659.9, 8760, 30190, 32260, 40067, 41060, 43170, 45160, 46160, 50112.7, 55050, and 60250 may be made by Federal Reserve Wire Transfer only if payment cannot, for good cause, be made according to subdivision (a) (1) of this regulation, and the use of Federal Reserve Wire Transfer is preapproved pursuant to subdivision (g) of this regulation. Banking costs incurred for the Federal Reserve Wire Transfer transaction charged to the person and to the state shall be paid by the person originating the transaction.</p> <p><u>(b) PARTICIPATION.</u></p> <p>(1) MANDATORY PARTICIPATION. Persons with an estimated monthly tax or fee liability of twenty thousand dollars (\$20,000) or more are required to remit amounts due by electronic funds transfer under procedures set forth in this regulation. To identify mandatory participants, the Board shall conduct a periodic review of all persons with licenses, permits, or other authorization under sections 7659.9, 8760, 30190, 32269, 40067, 41060, 43170, 45160, 46160, 50112.7, 55050, and 60250. The review is performed by calculating an average monthly tax or fee liability for a twelve-month period. Persons whose average monthly tax or fee liability equals or exceeds twenty thousand dollars will be required to remit payments by electronic funds transfer. If a person did not engage in a covered activity until after the beginning of the designated twelve-month review period, then the monthly tax or fee liability will be calculated based upon the number of months in which covered activities occurred (for example, in a calendar year review period, if the person obtains a permit or license and begins operations for which a tax or fee may be imposed in May, the total tax or fee liability would be divided by eight to determine the average monthly tax or fee liability since there are eight months remaining in the evaluation period). Persons registering to report and pay a tax or fee for the first time, except certain successors, will not be required to participate in the electronic funds transfer program until a review is conducted.</p> <p>A successor will be regarded as having an estimated tax or fee liability of twenty thousand dollars (\$20,000) or more per month when the monthly tax or fee liability of the predecessor exceeded twenty thousand dollars per month or the predecessor was a mandatory participant in the electronic funds transfer program. If the successor purchases a portion of a business that is required to participate in the mandatory electronic funds transfer program (e.g. a multiple outlet business that only sells some, but not all of its locations), the average monthly tax or fee liability of the purchased business will be computed to determine if the successor meets the threshold to be identified as a mandatory participant in the electronic funds transfer program.</p>

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Cross-reference Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214,
3203, 3503, and 1425, *Payments by Electronic Funds Transfer*

Action Item	Staff and Industry's Proposed Regulatory Language
	<p><u>After review, if a person drops below the threshold for mandatory participation, the Board shall provide notification, in writing, that the status has been changed from mandatory participation to voluntary participation in the electronic funds transfer program. If, at that time, a person wishes to discontinue making electronic funds transfer payments, a written request must be made to the Board. Payments must continue to be remitted by electronic funds transfer until the taxpayer or feepayer is notified by the Board, in writing, of an effective date of withdrawal from the program. Any person who fails to comply with the mandatory participation requirements under this article shall be liable for a penalty as provided under the applicable Revenue and Taxation Code sections 7659.9(f), 8760(f), 30190(f), 32260(f), 40067(f), 41060(f), 43170(f), 45160(f), 46160(f), 50112.7(f), 55050(f), and 60250(f).</u></p> <p><u>(2) VOLUNTARY PARTICIPATION. Any person not meeting the criteria for mandatory participation set forth in subdivision (b)(1) of this regulation may participate in the program on a voluntary basis. A person must register with the Board prior to participation and must remain in the program for a minimum of one year. After that time, if a person wishes to discontinue making electronic funds transfer payments, a written request must be made to the Board. Payments must continue to be remitted by electronic funds transfer until notified by the Board, in writing, of an effective date of withdrawal from the program.</u></p> <p><u>(c) DATE OF PAYMENT. Payment is deemed complete on the date the electronic funds transfer is initiated, if the settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If the settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.</u></p> <p><u>(d) FILING OF RETURNS. In addition to a tax or fee payment made by electronic funds transfer, a return must be filed on or before the due date. Any person who fails to comply with this provision shall be subject to penalty charges as provided under Revenue and Taxation Code sections 7659.9(d), 8760(d), 30190(d), 32260(d), 40067(d), 41060(d), 43170(d), 45160(d), 46160(d), 50112.7(d), 55050(d), and 60250(d).</u></p> <p><u>(e) FAILURE TO PAY BY ELECTRONIC FUNDS TRANSFER. Any person required to pay tax or fee by electronic funds transfer must continue to do so until the Board advises them otherwise in writing. Any person required to pay taxes or fees by electronic funds transfer, as set forth in subdivision (b)(1), who does not pay through electronic funds transfer but uses another means (e.g., pay by check), will be assessed a penalty as provided by Revenue and Taxation Code sections 7659.9(e), 8760(e), 30190(e), 32260(e), 40067(e), 41060(e), 43170(e), 45160(e), 46160(e), 50112.7(e), 55050(e), and 60250(e).</u></p> <p><u>(f) ZERO AMOUNT DUE. When no tax is due for a given period, a zero dollar transaction must be made by electronic funds transfer or the Board must receive written notification stating that no tax is due for that period.</u></p>

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Cross-reference Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214,
3203, 3503, and 1425, *Payments by Electronic Funds Transfer*

Action Item	Staff and Industry's Proposed Regulatory Language
	<p><u>(g) EMERGENCIES.</u> In emergency situations, a Federal Reserve Wire Transfer transaction may be used to transmit a payment. A Federal Reserve Wire Transfer is an electronic payment system used by federal reserve banks to transfer funds instantaneously. Generally, this method of payment is not approved for recurring transactions. Authorization must be received from the Board prior to making a payment by Federal Reserve Wire Transfer. The person who originates the transfer shall be responsible for any fees incurred in paying by a Federal Reserve Wire Transfer transaction.</p> <p align="center">Special Taxes Programs Cross-References to Regulation 4905</p> <p>Motor Vehicle Fuel Tax Aircraft Jet Fuel Tax</p> <p><u>Regulation 1160. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p> <p>Use Fuel Tax</p> <p><u>Regulation 1331.2. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p> <p>Cigarette Tax Tobacco Products Tax</p> <p><u>Regulation 4031.1. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p>

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Cross-reference Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214,
3203, 3503, and 1425, *Payments by Electronic Funds Transfer*

Action Item	Staff and Industry's Proposed Regulatory Language
	<p>Alcoholic Beverage Tax</p> <p><u>Regulation 2520. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p> <p>Energy Resources Surcharge</p> <p><u>Regulation 2333. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p> <p>Emergency Telephone Users Surcharge</p> <p><u>Regulation 2425. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p> <p>Childhood Lead Poisoning Prevention Fee Hazardous Substances Tax Occupational Lead Poisoning Prevention Fee</p> <p><u>Regulation 3005. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p>

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Cross-reference Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214,
3203, 3503, and 1425, *Payments by Electronic Funds Transfer*

Action Item	Staff and Industry's Proposed Regulatory Language
	<p>Integrated Waste Management Fee</p> <p><u>Regulation 3303. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p> <p>Oil Spill Response Fee Oil Spill Prevention, and Administration Fees</p> <p><u>Regulation 2232.1. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p> <p>Underground Storage Tank Maintenance Fee</p> <p><u>Regulation 1214. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p> <p>Marine Invasive Species Fee (Ballast Water Management Fee)</p> <p><u>Regulation 3203. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p>

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Cross-reference Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214,
3203, 3503, and 1425, *Payments by Electronic Funds Transfer*

Action Item	Staff and Industry's Proposed Regulatory Language
	<p>California Tire Fee Electronic Waste Recycling Fee Natural Gas Surcharge Water Right Fee</p> <p><u>Regulation 3503. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p> <p>Diesel Fuel Tax</p> <p><u>Regulation 1425. Payment by Electronic Funds Transfer.</u></p> <p><u>Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.</u></p>

Issue Paper Number 04-013



- ☐ Board Meeting
- ☒ Business Taxes Committee
- ☐ Customer Services and Administrative Efficiency Committee
- ☐ Legislative Committee
- ☐ Property Tax Committee
- ☐ Other

Proposed Regulation Regarding Requirements for Electronic Funds Transfer Reporting Regulation 4905, Electronic Funds Transfer

I. Issue

Should the Board adopt proposed new Regulation 4905, *Electronic Funds Transfer*, to implement the provisions of the Revenue and Taxation Code governing the electronic funds transfer payment requirements for the following twenty-one tax and fee programs (Special Taxes):¹

Motor Vehicle Fuel Tax; Aircraft Jet Fuel Tax; Use Fuel Tax; Cigarette Tax, Tobacco Products Tax; Alcoholic Beverage Tax; Energy Resources Surcharge; Emergency Telephone Users Surcharge; Childhood Lead Poisoning Prevention Fee; Hazardous Substances Tax; Occupational Lead Poisoning Prevention Fee; Integrated Waste Management Fee; Oil Spill Response Fee, Oil Spill Prevention and Administration Fees; Underground Storage Tank Maintenance Fee; Marine Invasive Species Fee (Ballast Water Management Fee); California Tire Fee; Natural Gas Surcharge; Water Right Fee, Electronic Waste Recycling Fee; and Diesel Fuel Tax.

II. Staff Recommendation

Staff recommends the Board adopt new Regulation 4905 to implement, interpret, and make specific the statutory provisions of the electronic funds transfer program for Special Taxes. Staff also recommends that the Board adopt new Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214, 3203, 3503, and 1425 to refer tax and fee payers to new Regulation 4905 for information on payments by electronic funds transfer.

There is no operative date since Regulation 4905 describes current policies and practices. See Issue Paper discussion on pages 3 and 4 and Agenda action item 1.

III. Other Alternative(s) Considered

Do not adopt new Regulation 4905.

¹ All references to code sections are to the Revenue and Taxation Code. For the text of the statutory provisions, see attached Exhibit 1.

Issue Paper Number 04-013

IV. Background

The various Revenue and Taxation Code (RTC) sections governing electronic funds transfer (EFT) for Special Taxes were added by Statutes 2000, Chapter 923. The Board of Equalization is required to administer the EFT payment process for specific types of tax payments and to adopt implementing regulations.

Staff proposes to promulgate a single regulation that provides guidance for making tax and fee payments by EFT. The suggested language is attached as Exhibit 2. The EFT regulation will provide a single set of rules for all the Special Taxes programs to which it applies. For ease of reference, staff also proposes to adopt a separate regulation for each individual tax or fee program to refer to the new EFT regulation. The suggested cross-reference language for each of the Special Taxes programs is listed in Exhibit 3.

New Regulation 4905 would implement, interpret, and make specific the various Special Taxes EFT provisions referenced above.

The EFT statutory requirements are nearly identical for all the Special Taxes programs and generally provide that a person whose estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, as determined by the Board, shall remit amounts due by an EFT under procedures prescribed by the Board. The law also allows for voluntary EFT payments and defines various EFT terms.

Regulation 4905 sets forth the procedures the Board will use to calculate when the threshold for mandatory EFT filing has been met, describes the procedures for voluntary payment by EFT, incorporates statutory definitions, identifies penalties for failure to file a return, failure to pay by EFT, and failure to timely pay, and describes alternative payment methods for use in emergency situations. The suggested regulation is substantially the same as the Sales and Use Tax Department's Regulation 1707, *Electronic Funds Transfer*.

Interested Parties Meetings - August 19, 2004 and October 5, 2004

Meetings were held on August 19, 2004 and October 5, 2004 to discuss the proposed Regulation 4905. No interested parties, other than representatives of the Board Members' staffs, attended the meetings, nor were any written comments received.

V. Staff Recommendation

A. Description of the Staff Recommendation

Staff recommends the Board adopt new Regulation 4905 to implement, interpret, and make specific the statutory provisions of the EFT program for Special Taxes. Staff also recommends that the Board adopt new Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214, 3203, 3503, and 1425 to refer tax and fee payers to new Regulation 4905 for information on payments by EFT.

Staff recommends no operative date since Regulation 4905 describes current policies and procedures.

Issue Paper Number 04-013

B. Pros of the Staff Recommendation

- Puts into regulatory form the interpretation the Board has used since it began implementing the various RTC sections governing EFT for Special Taxes that were added by Statutes 2000, Chapter 923.
- Clarifies the Board's procedures for computing the threshold for mandatory Special Taxes EFT participation.
- Fullfills the requirement of the various RTC sections governing EFT for Special Taxes, added by Statutes 2000, Chapter 923, which specify that the board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing these sections.

C. Cons of the Staff Recommendation

Requires regulatory change.

D. Statutory or Regulatory Change

No statutory change is required. However, approval of staff's recommendation will require adoption of the proposed Regulation 4905.

E. Administrative Impact

Staff will be required to notify tax and feepayers of the new regulation and to revise the Special Taxes Department's, *Electronic Funds Transfer (EFT) Program Information Guide*.

F. Fiscal Impact

1. Cost Impact

Staff will notify tax and fee payers of the new regulation through newsletter articles and a revision to the Special Taxes Department's, *Electronic Funds Transfer (EFT) Program Information Guide*. The workload associated with the publishing and distribution of the newsletters and revision of the *Information Guide* is routine and will be accommodated within existing resources.

2. Revenue Impact

None. See Revenue Estimate, Exhibit 4.

G. Taxpayer/Customer Impact

Will increase taxpayer awareness and understanding as to how the Board administers its Special Taxes Department EFT Program and how it computes the threshold for mandatory participation in the program.

Issue Paper Number 04-013

H. Critical Time Frames

There is no operative date since Regulation 4905 describes current policies and procedures.

VI. Alternative 1

A. Description of the Alternative

Do not adopt staff's proposed Regulation 4905, *Electronic Funds Transfer*.

B. Pros of the Alternative

Does not require regulatory change.

C. Cons of the Alternative

There will be no regulatory language to implement, interpret, and make specific the provisions of the various RTC sections governing EFT for Special Taxes, added by Statutes 2000, Chapter 923, which state: "The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section."

D. Statutory or Regulatory Change

None.

E. Administrative Impact

None.

F. Fiscal Impact

1. Cost Impact

None.

2. Revenue Impact

None. See Revenue Estimate, Exhibit 4.

G. Taxpayer/Customer Impact

The provisions of the various RTC sections governing EFT for Special Taxes, added by Statutes 2000, Chapter 923, will not be implemented by regulation as required by law. Most significantly, no explanation of the method used to compute the threshold for mandatory EFT participation will be readily available.

H. Critical Time Frames

None.

Prepared by: Excise Taxes and Fees Division, Property and Special Taxes Department

Current as of: November 29, 2004

**Motor Vehicle Fuel Tax
Aircraft Jet Fuel Tax****7659.9. Electronic funds transfer program.**

(a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform an electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 7651) and Article 1.1 (commencing with Section 7659). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e) (1) Except as provided in paragraph (2), any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted. (2) A person required to remit prepayments pursuant to this article who remits a prepayment by means other than an appropriate electronic funds transfer shall pay a penalty of 6 percent of the prepayment incorrectly remitted.

(f) Except as provided by Sections 7659.5 and 7659.6, any person who fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 7660) or Article 2.5 (commencing with Section 7670), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be paid became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) Except as provided in subdivision (i), the penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due, exclusive of prepayments, for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 7655.

(i) The penalties imposed with respect to paragraph (2) of subdivision (e) and Sections 7659.5 and 7659.6 shall be limited to a maximum of 6 percent of the prepayment amount.

(j) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

Motor Vehicle Fuel Tax
Aircraft Jet Fuel Tax**7659.92. Definitions.**

(a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person, through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 7659.9 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

Use Fuel Tax**8760. Electronic funds transfer payments.**

(a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 8751). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes with respect to the period for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(f) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 8776) or Article 3 (commencing with Section 8801), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 8876.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

Use Fuel Tax**8762. Definitions.**

(a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 8760 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

**Cigarette Tax
Tobacco Products Tax****30190. Electronic funds transfer payments.**

(a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 30181). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes with respect to the period for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(f) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 30173) or Article 2 (commencing with Section 30201) or Article 3 (commencing with Section 30221), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 30281.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

**Cigarette Tax
Tobacco Products Tax****30192. Definitions.**

(a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 30190 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

Alcoholic Beverage Tax**32260. Electronic funds transfer payments.**

(a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 32251). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, with respect to the period for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(f) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 32271) or Article 3 (commencing with Section 32291), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 32252.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

Alcoholic Beverage Tax**32262. Definitions.**

(a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 32260 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

Energy Resources Surcharge**40067. Electronic funds transfer payments.**

(a) Any person whose estimated surcharge liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated surcharge liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 40051) and Article 2 (commencing with Section 40061). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting surcharges by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of the surcharge with respect to the period for which the return is required.

(e) Any person required to remit surcharges pursuant to this article who remits those surcharges by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the surcharges incorrectly remitted.

(f) Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 40071) or Article 4 (commencing with Section 40081), within the time required shall pay a penalty of 10 percent of the surcharge or amount of surcharge, in addition to the surcharge or amount of surcharge, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated surcharge liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the surcharge due for any one return. Any person remitting surcharges by electronic funds transfer shall be subject to the penalties under this section and not Section 40101.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

Energy Resources Surcharge**40069. Definitions.**

(a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of surcharge. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 40067 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

Emergency Telephone Users Surcharge**41060. Electronic funds transfer payments.**

(a) Any person whose estimated surcharge liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated surcharge liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 41050). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting surcharges by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of the surcharges with respect to the period for which the return is required.

(e) Any person required to remit surcharges pursuant to this article who remits those surcharges by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the surcharges incorrectly remitted.

(f) Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 41070) or Article 4 (commencing with Section 41080), within the time required shall pay a penalty of 10 percent of the surcharge or amount of surcharge, in addition to the surcharge or amount of surcharge, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated surcharge liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the surcharges due for any one return. Any person remitting surcharges by electronic funds transfer shall be subject to the penalties under this section and not Section 41095.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

Emergency Telephone Users Surcharge**41062. Definitions.**

(a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of the surcharge. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 41060 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

**Childhood Lead Poisoning Prevention Fee
Hazardous Substances Tax
Occupational Lead Poisoning Prevention Fee**

43170. Electronic funds transfer payments.

(a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 43151). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(f) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 43201), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or amount of tax required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return or prepayment. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 43155.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

**Childhood Lead Poisoning Prevention Fee
Hazardous Substances Tax
Occupational Lead Poisoning Prevention Fee**

43172. Definitions.

(a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 43170 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

Integrated Waste Management Fee**45160. Electronic funds transfer payments.**

(a) Any person whose estimated fee liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated fee liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 45151). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting fees by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of fees with respect to the period for which the return is required.

(e) Any person required to remit fees pursuant to this article who remits those fees by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the fees incorrectly remitted.

(f) Any person who fails to pay any fee to the state or any amount of fee required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 45201), within the time required shall pay a penalty of 10 percent of the fee or amount of fee, in addition to the fee or amount of fee, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated fee liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the fees due for any one return. Any person remitting fees by electronic funds transfer shall be subject to the penalties under this section and not Section 45153.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

Integrated Waste Management Fee**45162. Definitions.**

(a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of the fee. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 45160 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

Oil Spill Response Fee
Oil Spill Response Prevention and Administration Fees**46160. Electronic funds transfer payments.**

(a) Any person whose estimated fee liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated fee liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 46151). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting fees by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of fees with respect to the period for which the return is required.

(e) Any person required to remit fees pursuant to this article who remits those fees by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the fees incorrectly remitted.

(f) Any person who fails to pay any fee to the state or any amount of fee required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 46201) or Article 3, (commencing with Section 46251), within the time required shall pay a penalty of 10 percent of the fee or amount of fee, in addition to the fee or amount of fee, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee or the amount of fee required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated fee liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the fees due for any one return. Any person remitting fees by electronic funds transfer shall be subject to the penalties under this section and not Section 46154.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

Oil Spill Response Fee
Oil Spill Response Prevention and Administration Fees**46162. Definitions.**

(a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of the fee. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 46160 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

Underground Storage Tank Maintenance Fee**50112.7. Electronic funds transfer payments.**

(a) Any person whose estimated fee liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated fee liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 50109). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting fees by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of fees, with respect to the period for which the return is required.

(e) Any person required to remit fees pursuant to this article who remits those fees by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the fees incorrectly remitted.

(f) Any person who fails to pay any fee to the state or any amount of fee required to be paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 50113) within the time required shall pay a penalty of 10 percent of the fee or amount of fee, in addition to the fee or amount of fee, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee or the amount of fee required to be paid became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated fee liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the fees due for any one return. Any person remitting fees by electronic funds transfer shall be subject to the penalties under this section and not Section 50112.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

Underground Storage Tank Maintenance Fee**50112.9. Definitions.**

(a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of the fee. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 50112.7 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

Marine Invasive Species Fee (Ballast Water Management Fee)
California Tire Fee
Electronic Waste Recycling Fee
Natural Gas Surcharge
Water Right Fee

55050. Electronic funds transfer payments.

(a) Any person whose estimated fee liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated fee liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates prescribed for the payment of the fee. Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting fees by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of fees, exclusive of prepayments, with respect to the period for which the return is required.

(e) Any person required to remit fees pursuant to this article who remits those fees by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the fees incorrectly remitted.

(f) Any person who fails to pay any fee to the state or any amount of fee required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 55061) within the time required shall pay a penalty of 10 percent of the fee or amount of fee, in addition to the fee or amount of fee, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee or the amount of fee required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated fee liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the fees due, exclusive of prepayments, for any one return. Any person remitting fees by electronic funds transfer shall be subject to the penalties under this section and not Section 55042.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

Marine Invasive Species Fee (Ballast Water Management Fee)
California Tire Fee
Natural Gas Surcharge
Water Right Fee

55052. Definitions.

(a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of the fee. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 55050 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

Diesel Fuel Tax**60250. Electronic funds transfer payments.**

(a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 60201). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes with respect to the period for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(f) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 60301) or Article 3 (commencing with Section 60310), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 60207.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

Diesel Fuel Tax**60252. Definitions.**

(a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 60250 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

Regulation 4905. ELECTRONIC FUNDS TRANSFER.

Reference: Sections 7659.9, 7659.92, 8760, 8762, 30190, 30192, 32260, 32262, 40067, 40069, 41060, 41062, 43170, 43172, 45160, 45162, 46160, 46162, 50112.7, 50112.9, 55050, 55052, 60250, and 60252 Revenue and Taxation Code.

(a) DEFINITIONS.

(1) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer.

(2) "Automated clearinghouse" means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(3) "Automated clearinghouse debit" means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person's bank account and crediting the state's bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(4) "Automated clearinghouse credit" means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(5) "Federal Reserve Wire Transfer" means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state's bank account. Electronic funds transfers pursuant to Revenue and Taxation Code sections 7659.9, 8760, 30190, 32260, 40067, 41060, 43170, 45160, 46160, 50112.7, 55050, and 60250 may be made by Federal Reserve Wire Transfer only if payment cannot, for good cause, be made according to subdivision (a) (1) of this regulation, and the use of Federal Reserve Wire Transfer is preapproved pursuant to subdivision (g) of this regulation. Banking costs incurred for the Federal Reserve Wire Transfer transaction charged to the person and to the state shall be paid by the person originating the transaction.

(b) PARTICIPATION.

(1) **MANDATORY PARTICIPATION.** Persons with an estimated monthly tax or fee liability of twenty thousand dollars (\$20,000) or more are required to remit amounts due by electronic funds transfer under procedures set forth in this regulation. To identify mandatory participants, the Board shall conduct a periodic review of all persons with licenses, permits, or other authorization under sections 7659.9, 8760, 30190, 32269, 40067, 41060, 43170, 45160, 46160, 50112.7, 55050, and 60250. The review is performed by calculating an average monthly tax or fee liability for a twelve-month period. Persons whose average monthly tax or fee liability equals or exceeds twenty thousand dollars will be required to remit payments by electronic funds transfer. If a person did not engage in a covered activity until after the beginning of the designated twelve-month review period, then the monthly tax or fee liability will be calculated based upon the number of months in which covered activities occurred (for example, in a calendar year review period, if the person obtains a permit or license and begins operations for which a tax or fee may be imposed in May, the total tax or fee liability would be divided by eight to determine the average monthly tax or fee liability since there are eight months remaining in the evaluation period). Persons registering to report and pay a tax or fee for the first time, except certain successors, will not be required to participate in the electronic funds transfer program until a review is conducted.

A successor will be regarded as having an estimated tax or fee liability of twenty thousand dollars (\$20,000) or more per month when the monthly tax or fee liability of the predecessor exceeded twenty thousand dollars per month or the predecessor was a mandatory participant in the electronic funds transfer program. If the successor purchases a portion of a business that is required to participate in the mandatory electronic funds transfer program (e.g. a multiple outlet business that only sells some, but not all of its locations), the average monthly tax or fee liability of the purchased business will be computed to determine if the successor meets the threshold to be identified as a mandatory participant in the electronic funds transfer program.

After review, if a person drops below the threshold for mandatory participation, the Board shall provide notification, in writing, that the status has been changed from mandatory participation to voluntary participation in the electronic funds transfer program. If, at that time, a person wishes to discontinue making electronic funds transfer payments, a written request must be made to the Board. Payments must continue to be remitted by electronic funds transfer until the taxpayer or feepayer is notified by the Board, in writing, of an effective date of withdrawal from the program. Any person who fails to comply with the mandatory participation requirements under this article shall be liable for a penalty as provided under the applicable Revenue and Taxation Code sections 7659.9(f), 8760(f), 30190(f), 32260(f), 40067(f), 41060(f), 43170(f), 45160(f), 46160(f), 50112.7(f), 55050(f), and 60250(f).

(2) VOLUNTARY PARTICIPATION. Any person not meeting the criteria for mandatory participation set forth in subdivision (b)(1) of this regulation may participate in the program on a voluntary basis. A person must register with the Board prior to participation and must remain in the program for a minimum of one year. After that time, if a person wishes to discontinue making electronic funds transfer payments, a written request must be made to the Board. Payments must continue to be remitted by electronic funds transfer until notified by the Board, in writing, of an effective date of withdrawal from the program.

(c) DATE OF PAYMENT. Payment is deemed complete on the date the electronic funds transfer is initiated, if the settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If the settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) FILING OF RETURNS. In addition to a tax or fee payment made by electronic funds transfer, a return must be filed on or before the due date. Any person who fails to comply with this provision shall be subject to penalty charges as provided under Revenue and Taxation Code sections 7659.9(d), 8760(d), 30190(d), 32260(d), 40067(d), 41060(d), 43170(d), 45160(d), 46160(d), 50112.7(d), 55050(d), and 60250(d).

(e) FAILURE TO PAY BY ELECTRONIC FUNDS TRANSFER. Any person required to pay tax or fee by electronic funds transfer must continue to do so until the Board advises them otherwise in writing. Any person required to pay taxes or fees by electronic funds transfer, as set forth in subdivision (b)(1), who does not pay through electronic funds transfer but uses another means (e.g., pay by check), will be assessed a penalty as provided by Revenue and Taxation Code sections 7659.9(e), 8760(e), 30190(e), 32260(e), 40067(e), 41060(e), 43170(e), 45160(e), 46160(e), 50112.7(e), 55050(e), and 60250(e).

(f) ZERO AMOUNT DUE. When no tax is due for a given period, a zero dollar transaction must be made by electronic funds transfer or the Board must receive written notification stating that no tax is due for that period.

(g) EMERGENCIES. In emergency situations, a Federal Reserve Wire Transfer transaction may be used to transmit a payment. A Federal Reserve Wire Transfer is an electronic payment system used by federal reserve banks to transfer funds instantaneously. Generally, this method of payment is not approved for recurring transactions. Authorization must be received from the Board prior to making a payment by Federal Reserve Wire Transfer. The person who originates the transfer shall be responsible for any fees incurred in paying by a Federal Reserve Wire Transfer transaction.

Special Taxes Programs Cross-References to Regulation 4905

Motor Vehicle Fuel Tax Aircraft Jet Fuel Tax

Regulation 1160. Payment by Electronic Funds Transfer.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

Use Fuel Tax

Regulation 1331.2. Payment by Electronic Funds Transfer.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

Cigarette Tax Tobacco Products Tax

Regulation 4031.1. Payment by Electronic Funds Transfer.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

Alcoholic Beverage Tax

Regulation 2520. Payment by Electronic Funds Transfer

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

Energy Resources Surcharge

Regulation 2333. Payment by Electronic Funds Transfer.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

Emergency Telephone Users Surcharge

Regulation 2425. Payment by Electronic Funds Transfer.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

Childhood Lead Poisoning Prevention Fee Hazardous Substances Tax Occupational Lead Poisoning Prevention Fee

Regulation 3005. Payment by Electronic Funds Transfer.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

Special Taxes Programs Cross-References to Regulation 4905

Integrated Waste Management Fee

Regulation 3303. Payment by Electronic Funds Transfer.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

Oil Spill Response Fee Oil Spill Prevention and Administration Fees

Regulation 2232.1. Payment by Electronic Funds Transfer.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

Underground Storage Tank Maintenance Fee

Regulation 1214. Payment by Electronic Funds Transfer.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

Marine Invasive Species Fee (Ballast Water Management Fee)

Regulation 3203. Payment by Electronic Funds Transfer.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

California Tire Fee Electronic Waste Recycling Fee Natural Gas Surcharge Water Right Fee

Regulation 3503. Payment by Electronic Funds Transfer.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

Diesel Fuel Tax

Regulation 1425. Payment by Electronic Funds Transfer.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

REVENUE ESTIMATE

STATE OF CALIFORNIA
BOARD OF EQUALIZATION



BOARD OF EQUALIZATION
REVENUE ESTIMATE

**Proposed Regulation Regarding Requirements for
Electronic Funds Transfer Reporting
Regulation 4905, Electronic Funds Transfer**

Staff Recommendation

Staff recommends the Board adopt new Regulation 4905 to implement, interpret, and make specific the statutory provisions of the electronic funds transfer program for Special Taxes. Staff also recommends that the Board adopt new Regulations 1160, 1331.2, 4031.1, 2520, 2333, 2425, 3005, 3303, 2232.1, 1214, 3203, 3503, and 1425 to cross-refer tax and fee payers to new Regulation 4905 for information on payments by electronic funds transfer.

There is no operative date since Regulation 4905 describes current policies and practices.

Alternative 1

Do not adopt Regulation 4905.

Background, Methodology, and Assumptions

Staff Recommendation:

There is nothing in the proposed Regulation 4905 that would impact revenues because the Board has the authority and obligation to collect these special taxes.

Alternative 1

Alternative 1 has no revenue impact because the current collection process would continue.

Revenue Summary

The staff recommendation has no revenue effect because the regulation incorporates current policies and practices.

Alternative 1 has no revenue impact.

Revenue Estimate

Preparation

Bill Benson, Jr., Research and Statistics Section, Legislative Division, prepared this revenue estimate. Mr. Dave Hayes, Manager, Research and Statistics Section, Legislative Division, and Mr. Dennis P. Maciel, Chief, Excise Taxes and Fees Division reviewed this revenue estimate. For additional information, please contact Mr. Benson at (916) 445-0840.

Current as of November 16, 2004.

cc: Mr. David Gau